IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 30666 of 2006(A)

PETITIONER:

S.NAYAGAM, S/O.SELVARAJ MOORTHI,
AGED 43 YEARS, HOUSE NO.IX/3297, MOORTHI TEA STALL, MUNNAR, IDUKKI DISTRICT.

BY ADV. SRI.N.M.VARGHESE

RESPONDENTS:
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1. MUNNAR GRAMA PANCHAYATH (SPECIAL GRADE), REP. BY SECRETARY, MUNNAR-685 612.

2. THE TAHSILDAR, DEVIKULAM TALUK, DEVIKULAM, IDUKKI DISTRICT.

3. STATE OF KERALA, REP. BY THE CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SMT.AYSHA YOUSEFF, SC, MUNNAR G.PANCHAY
SMT.MOLLY JACOB, SC, MUNNAR G.PANCHAYAT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 30666/2006

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: A PHOTOCOPY OF BUILDING PERMIT NO.9/93-94 DATED 10/06/1993 ISSUED BY THE 1ST RESPONDENT PANCHAYAT IN THE NAME OF the FATHER OF THE PETITIONER.

EXHIBIT P2: A PHOTOCOPY OF APPROVED PLAN OF THE BUILDING PURSUANT TO EXHIBIT P1.

EXHIBIT P3: A PHOTOCOPY OF LICENSE ISSUED BY THE 1ST RESPONDENT PANCHAYAT IN THE NAME OF THE FATHER OF THE PETITIONER DATED 02/05/1994.

EXHIBIT P4: A PHOTOCOPY OF THE OWNERSHIP CERTIFICATE NO.A3-830/2001 DATED 06/11/2001 ISSUED BY THE 1ST RESPONDENT PANCHAYAT IN THE NAME OF THE FATHER OF THE PETITIONER.

EXHIBIT P5: A PHOTOCOPY OF DEATH CERTIFICATE OF THE FATHER OF THE PETITIONER DATED 19/10/2005 ISSUED FROM THE REGISTRAR OF BIRTHS AND DEATHS OF THE 1ST RESPONDENT GRAMA PANCHAYAT.

EXHIBIT P6: A PHOTOCOPY OF NEWS ITEM PUBLISHED IN THE MALAYALA MANORAMA DAILY DATED 27/7/2005.

EXHIBIT P7: A PHOTOGRAPH SHOWING THE PETITIONERS TEASHOP CUM RESIDENTIAL BUILDING TAKEN RECENTLY.

EXHIBIT P8: A PHOTOGRAPH SHOWING THE DILAPIDATED CONDITION OF BASEMENT RETAINING WALL OF THE PETITIONER'S TEASHOP CUM RESIDENTIAL BUILDING.

EXHIBIT P9: A PHOTOGRAPH SHOWING BREAKING AND SHRINKAGE OF THE FLOOR OF PETITIONER'S TEASHOP CUM RESIDENTIAL BUILDING.

EXHIBIT P10: A PHOTOCOPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 27/10/2006.

EXHIBIT P11: A PHOTOCOPY OF INTERIM ORDER PASSED BY THIS HON'BLE COURT IN C.M.P.NO.5650/2003 IN O.P.NO.3150/2003 DATED 26/03/2003.

EXHIBIT P12: A PHOTOCOPY OF INTERIM ORDER PASSED BY THIS HON'BLE COURT IN W.P.(C) NO.2194/2005 DATED 07/03/2005.

//TRUE COPY//

P.A. TO JUDGE

PIUS C.KURIAKOSE,J.

W.P.(C) NO. 30666 OF 2006

Dated this the 8th day of December, 2006

J U D G M E N T

Heard Sri.N.M.Varghese, counsel for the petitioner and Smt.Aysha Yousuf, standing counsel for the 1st respondent Panchayat. Counsel for the petitioner submits that what the petitioner wants, is only to do the essentially needed repairs to the basement and foundation of the building which is seen in Exhibit P7 photograph. Counsel undertook that the petitioner will not expand the plinth area of the building in any manner at all. The learned standing counsel for the Panchayat submitted that it should be ensured that the petitioner does not expand plinth area of the building under the guise of the permit to be issued in his favour by the Panchayat.

2. Under these circumstances, the writ petition will stand disposed of with the following directions.

The Secretary of the 1st respondent, Panchayat will immediately take up Exhibit P10, consider it favourably and issue permit to the petitioner for doing all the necessary repair and reinforcement works retaining the basement and foundation of

existing shop cum residential building which is seen in Exhibit P7 photograph. The permit as directed above will be issued by the respondent within two weeks of the respondent receiving copy of this judgment. The permit shall contain a clause that the petitioner shall not expand the plinth area of the building in question at all, and that the foundation and basement will only be repaired and reinforced.

PIUS C.KURIAKOSE, JUDGE

Rp